

Sri Lanka

THE CURRENT SITUATION OF TAMILS

Western government authorities are of the view that widespread human rights abuses have sharply declined in Sri Lanka and that the Sri Lankan Government has taken measures to protect the human rights of all its citizens.

Though the Sri Lankan government has taken some measures as a result of pressure from international human rights organisations and donor governments, it is not correct to say at this stage that the Sri Lankan authorities are able and willing to provide effective protection to all its citizens.

In the six months that have followed the killing of President Premadasa on 1 May 1993 over 10,000 Tamils have been arrested in Colombo alone. There are no official figures available on the number of Tamils in detention. Estimates say nearly 2,000 Tamils remain in declared detention centres. Apart from these persons, over 800 Tamils are currently held in the Colombo Magazine and Kalutara

prisons, many of them for over three years without access to courts, and an unspecified number in army camps and police stations. Many Tamils are also shuttled from one place of detention to another referred to as "mobile detention".

Sri Lanka has been governed under a state of Emergency for more than twenty years and Emergency rule continues. The extension of Emergency comes up for discussion every month in Parliament and it is always passed by a comfortable majority. Under Emergency rule, state authorities are granted wide powers of arrest and detention, the acquisition of property, restriction of rights of assembly, association and publication.

Government troops have no control in the North, but launch frequent military offensives, which have resulted in the death of a large number of civilians. Government troops also make use of frequent aerial bombardments and shelling from their camps and from ships offshore, indiscriminately, resulting again in the death of civilians and destruction of property. Refer Sri Lanka: Economic Blockade published by TIC for details.

Over 45 civilians were killed in indiscriminate

aerial bombardment by the airforce after the attack on the Pooneryn military camp by the LTTE on 11 November. Public places including hospitals, schools and temples were bombed. Even the Government Agent's Office was bombed and the GA sustained injuries. Airforce bombing and shelling of populated areas during the day and in the night continue to the present day.

In the East the government only has control over the urban areas. From their bases the troops patrol the countryside in search of LTTE camps. Again civilians are caught up in crossfire. The army also carries out search operations arresting hundreds of Tamils, many of whom never return. Since June 1990 alone over 5,000 Tamils have disappeared in Batticaloa after being detained by the army.

Since independence in 1948 there has been state aided settlement of Sinhalese in the North and East. The Tigers have sought to drive out these settlers. Following attacks, the military frequently makes revenge attacks on Tamil villages killing civilians. The villagers usually flee to refugee camps. There are around one million people, 90% of them Tamils, internally displaced.

In all the circumstances it is not appropriate to say that the government can exercise any sort of effective control in the North and the East of the

island. The government decided in September 1993 to postpone local elections in the East, scheduled for October 1993, after advice by the military high command and Members of Parliament that the situation was not conducive to hold elections.

Following the passing of the Emergency regulations under the public Security Ordinance in August 1991, 48 essential items including fuel, medicine and fertilisers are banned from being transported into the North. Only a fraction of the food requirement of the population is allowed. (See "Sri Lanka: Economic Blockade").

Many Tamils have fled the North and the East to seek refuge in Colombo or the Hill country. UNHCR maintains the Colombo and the south are safe for Tamils. However, this is quite simply not true. There is a clear pattern, dating back to independence, that whenever there is anti-Tamil violence in Sri Lanka, Tamils living in these areas have been targeted, often as a response to violence elsewhere.

When Navy Commander Vice Admiral Clancy Fernando was killed on 16th November 1992 by a suicide bomber in Colombo, over 3,000 Tamils were arrested in the city. After Northern Commander Major General Kobbekaduwa and five other Senior military Commanders were killed by a landmine on Kayts Island near Jaffna in the North, 35 Tamils were slaughtered at Mahilarthanai village in the east by soldiers. The opposition MP, Lalith Athulathmudali was killed in April 1993, and President Premadasa assassinated on 1st May 1993. After these two

incidents thousands of Tamils were rounded-up in Colombo, the Hill Country and the South. Over 1,000 Tamils were rounded-up in mid night operations in late August and 150 were detained for further questioning. Arrests continue and reports received by the TIC say at least 100 Tamils are arrested daily.

Similarly a large number of Tamils were arrested following the death of 23 people when a car laden with explosives was driven into headquarters of the Joint Operations Command in Colombo in June 1991 by a LTTE Black Tiger suicide commando.

The round-ups are indiscriminate and without foundation. Young Tamils are picked up for no other reason than that they are Tamils. They are ill-treated in detention. There are disappearances and deaths. A number of Tamils have been arrested in the Hill Country and other areas in the south. In August 1993 when four Tamil students and a teacher were arrested by police in the Hill Country T V Sennan M.P. and Vice President of the Ceylon Workers Congress (C.W.C) warned of dire consequences. The C.W.C also says that there have been number of disappearances in the Hill Country. The C.W.C is part of the present government and its leader S.Thondaman is a Minister who has in a recent statement says that he is unable to prevent the arbitrary arrests. Many arrests have been made by persons in plain cloths without proof of identification. Arrests also have been made despite bona-fide identity cards or proof of long standing residence or employment in Colombo. Tamil houses, shops, refugee camps and cheap hotels and lodges where

Tamils live are kept under close watch by the security forces. It is certainly not right to say that Tamils are protected by the government authorities simply because they are in Colombo, the Hill Country or the South: they remain at risk in these areas.

Some Western governments are quoting the agreement by the Prime Minister Ranil Wickremesinghe to five major safeguards for those arrested and directives issued accordingly to the Police to: (i) provide confirmation by issuing receipts to relatives for those arrested from their homes (ii) get male relatives to accompany women arrested (iii) issue certificates given to those released (iv) to make forms available at police stations for Tamils to register in Colombo, and (V) get police to prepare written statements in their own language and signed.

President D B Wijetunge, at a meeting with S Thondaman, Tourism Minister about the Tamils from the Hill country also pledged that (i) there should be reasonable grounds for arrests, not simply on the basis of ethnicity (ii) those arrested should not be detained with criminal suspects, and (iii) if able to produce agreed proof of Colombo residence or employment, suspects should be released.

These assurances are not being implemented according to Amnesty International. Many young Tamils are routinely re-arrested, some two or three times in one day in cordon and search operations in different areas of the capital Colombo.

A joint statement of several Sri Lankan Human Rights NGOs reports that unidentified persons removing Tamils blindfolded in the middle of the night and their whereabouts are not known. Abduction of Tamils by armed men in unmarked vehicles are also reported in Colombo recently and this matter was raised in the Parliament by Tamil MPs in October and November 1993.

The government Directorate of Military Intelligence (DMI) unit in Ragama, a few miles from Colombo has a brief to clear the capital Colombo from the so called terrorist threat. Richard Dias alias Captain Munas who was responsible for the disappearance of 158 Tamils from the Batticaloa University refugee camp is in charge of the Unit. Disappearances of Tamils have occurred recently according to Amnesty International.

The continuing fear of LTTE infiltration in Colombo and the South, will ensure that these round-ups continue. Furthermore there are bound to be repercussions in the South and Colombo if there is a large scale push by government forces in the North as evidenced in the case of army operation 'Yal Devi' and LTTE attack on the Pooneryn military camp.

On 27 February 1991 State Defence Minister Ranjan Wijeratne announced a military operation in Madhu in Mannar District. Leaflets were dropped instructing refugees in the area to go into army-controlled camps. Madhu refugee camp which was then run by the UNHCR is located in a strategic military point causing

inconvenience to the military to mount operations against the LTTE. On 2 March 1991 Mr. Wijeratne was assassinated by a Black Tiger suicide commando in Colombo.

The Sri Lankan government set up the Human Rights Task Force (HRTF) in August 1991 to monitor the observance of fundamental rights of detainees taken into custody under Emergency Regulations or the Prevention of Terrorism Act; the maintenance of a register of detainees was one of the primary tasks assigned to this body. In its twenty six months of existence, HRTF has been unable yet to compile a complete list of either the detainees or the places of detention. Thus, it has been unable to fulfil the primary function for which it was set up. In its first report of August 1992, the Human Rights Task Force had also admitted to the particular practice of "mobile detention" in which detainees are continually transferred from place to place. This has enabled security forces to prevent detection of a large number of Tamils taken into custody, particularly in the North-East, despite the Regional office of the HRTF set up with the assistance of Western nations. There is no doubt that most of these detainees will not be seen again. According to the HRTF report for 1992/1993 of the reported 2,351 missing persons, HRTF has been able to trace only 114.

The Tamil Information Centre has received reports that 42 persons were held in a Special Task Force Camp in Kalmunai for more than two years. HRTF had come to know about this detention only recently and when they visited the camp they could find only 21 persons.

The report by the Canada - Asia Working Group submitted to the UN Human Rights Commission in February-March 1993 also states clearly the inability of the state mechanism HRTF to provide effective monitoring. The report also says that over the past few years, the government has instituted a number of promising human rights measures. However, these have been insufficient to address the human rights concerns which have continued to be evident throughout 1992. It goes on to further state "the efforts of the government human rights bodies have been limited in their efficacy and have failed completely to remedy the root causes of the situation which gives rise to human rights violations".

In September 1993, the Police conducted many search operations in the Hill Country, particularly in urban areas. In operations in Gampola, Badulla, Kandy, and Pussellawa only Tamil-owned houses and shops were searched and a number of Tamils have been arrested.

On 11 September 1993 around 30 Tamils on their early morning walk were arrested by police on the Wellawatte beach in Colombo. First the police inquired whether they were Tamils and then made the arrests. This clearly shows that the Tamil community had been targeted.

On 27 September 1993, the police surrounded the Mutuwal refugee camp in Colombo and arrested 97 Tamils. No reasons were given for the arrest. It is clear from the Amnesty International's statement (ASA 37/WU 03/93; 21 June 1993)

that no information is available as to the number of people remaining in detention. In its October 1993 statement (ASA 37/WV/04/93) Amnesty says "Since June there have been several waves of such arrests forming part of a pattern of human rights violations directed at the Tamil Community, in which thousands of people appear to have been arrested solely on the basis of their ethnic origin".

It is argued that the presence of the International Committee of the Red Cross(ICRC) in Sri Lanka helps to check human rights violations. ICRC's work is limited to relief and visiting prisoners. ICRC can visit prisoners detained in prisons, but has no access to those held in police stations and army camps. The ICRC has been accused by MPs of supporting the guerrillas and terrorists and in December 1993 it was accused of attempting to transport batteries [banned items] into the North of the island. UNHCR has also been under attack by MPs. Accordingly, whenever these organisations make any complaints or criticisms it is possible for these to be easily dismissed on the ground that there is complicity with terrorists.

Amnesty International too has been allowed into Sri Lanka. However, it has had no access to the North of the island. In 1992, 30 out of the 32 recommendations of Amnesty International were accepted by the Sri Lankan government but these recommendations have not been implemented, despite repeated representations.

It is clear that the limited presence of any of these

organisations has not led to any improvement in the discipline and accountability of the security forces. In fact there are reasons for concern over the standards of discipline further deteriorating.

It is also argued that military commanders have been given clear directives from the Ministry of Defence to pay regular visits to sensitive areas in the north and east and keep their forces under control. Furthermore, members of the security forces are instructed to report immediately all cases of detention to the Human Rights Task Force. These directives are also not followed.

Around 14,000 soldiers have deserted the army upto date. At the same time, however, there is evidence of build up of troops and equipment. This has meant that the age limit and qualifications required by recruits have been reduced. This inevitably means indiscipline among soldiers will increase. In August 1993, 10,000 were recruited to the Army.

Deserters have retained their arms. They have been involved in robbery and murder and a number of them have been arrested while committing crime. Arms also find their way into the hands of the LTTE. There are also fears of links between the deserters and the People Liberation Front (JVP), the Sinhalese Marxist organisation proscribed by the government. None of these suggests a disciplined force of men.

Furthermore there are divisions among the security forces themselves. It is difficult to say who commands any particular part of the

security forces because of internal power struggles. In the recent past only two people have been able to exercise effective control over all the armed forces: Ex-president Jayewardene, and more recently President Premadasa. However, since President Premadasa's death it is not possible to say that the government has full control over the military. Military personnel have recently been lobbying religious leaders and opposition MPs to obtain support for an onslaught on the northern province. This sort of behaviour further suggests that the government has no effective control over its military commanders.

There have also been recent accusations, that the Third Gajaba regiment of the Army planned to attack Tamils in Wellawatte in Colombo by burning down shops and houses on 25th and 26th November to celebrate LTTE leader Prabhakaran's birthday. Reports say that a number of foreign embassies including the Indian High Commissioner and the British High Commissioner, Mr John Field and local and international NGOs were contacted and informed about this possible action. TIC sources also confirmed that this matter had been taken up by them and the President and the Prime Minister were urged to prevent such action by the Security forces.

Deputy Inspector General of Police(IGP) P. Udagampola was responsible for the deaths of hundreds of Sinhalese youths during the JVP insurgency in the 1989-1990 period. When he was IGP in Kandy almost every day youths were killed and thrown into streets to instil fear in others.

After President Premadasa gained power, the IGP said that top government politicians were involved in death squads and he would expose them. He went into hiding when the police attempted to arrest him and then fled the country. He returned to Sri Lanka in June 1993. He was not arrested on arrival, and the case against him was withdrawn when he publicly announced that he would not expose any government politician. He was appointed by the government as Deputy Chairman of the Colombo Ports Authority in August 1993.

We also learn that the British government is of the view that the government of Sri Lanka has taken serious steps to address the allegations of abuse of human rights by the security forces. This view is incorrect.

Whatever the Sri Lankan government might say and accept publicly, it is also important to ensure practical steps are taken with a view to genuinely improving Human Rights. Tamils feel that the government of Sri Lanka is not keen and will not promote and protect the human rights of the Tamils in Sri Lanka.

A Special Presidential Commission was set up to investigate the Kokkadicholai massacre of civilians in Kokkadicholai in Batticaloa District and the government agreed to implement the various recommendations, including those relating to the payment of compensation to the victims and their next of kin. Furthermore an army officer was found guilty by a court martial and was discharged. To begin with, the number of

persons killed was 186 and the government accepted responsibility for 76 persons only. Secondly, several soldiers were involved in the massacre. Only one was found guilty. The punishment for the murder of 186 innocent men, women and children was merely a discharge from the army.

The Tamil community feels that such events encourage the security forces to further violate Human Rights with impunity. Public utterances and promises by Presidents, politicians, Buddhist monks and security personnel are common in Sri Lanka and Tamils are not convinced that the situation has improved. As a matter of fact, the situation has significantly deteriorated since July 1983 pogrom against the Tamils and this is an important factor that has to be taken into consideration.

The human rights situation in Sri Lanka has been a matter of grave concern to the members of the UN Commission on Human Rights. The 49th Session of the Commission held in February-March 1993 also referred to the serious concern of the commission over the human rights situation in Sri Lanka, having acknowledged the measures taken by the government to monitor reports of disappearances and other human rights violations. In regard to the ongoing ethnic conflict, the Commission urged the Sri Lankan government "to continue to pursue a negotiated political solution with all parties, based on principles of respect for human rights and fundamental freedoms leading to a durable peace in the north and east of the country". The

Commission went on further to say that despite its expression of concern, and its urging and pleadings to the Sri Lankan government, it has failed to establish a situation in which there is "full protection of human rights", or full respect for universally accepted rules of humanitarian law and the government has failed to take any concrete steps "to pursue a negotiated political solution with all parties", and the armed conflict in the north and east of the country continues unabated.

In response to the statement by the Chairman of the UN Commission on Human Rights, Mr Tilak Marapana, leader of the Sri Lankan delegation agreed on 11 March 1993 that as long as the conflict continues, it would create conditions in which the risk of human rights abuses can increase. This is a fair statement by Mr Tilak Marapana and is shared by the Tamil community.

However, it should be noted that the new President D B Wijetunga maintains that there is no ethnic problem in Sri Lanka only a terrorist problem. LTTE accuses the government of not making any efforts to solve the problem politically and say that the government is refusing to make peace proposals. This would inevitably lead to further bloodshed and continued persecution of Tamils.

We would like to give you some idea of the problems faced by UNHCR. UNHCR has expressed its inability to monitor refugee returns to Sri Lanka. There have been a number of

problems faced by UNHCR. UNHCR has expressed its inability to monitor refugee returns to Sri Lanka. There have been a number of arrests and killings within UNHCR refugee camps. In these circumstances any support from UNHCR for repatriation seems not to be appropriate. UNHCR's withdrawal from the Madhu camp and the subsequent decision to pull out from other areas now also indicate the dangers inherent in UNHCR's policy of safe havens.

The government is clearly not interested in a political solution. The Parliamentary Select Committee appointed to find a solution to the ethnic problem, has recommended by a majority decision, Tamil members voting against, to divide the North-East Province. This has in effect aggravated the problem and all the Tamil parties including the CWC which is part of the government, have left the Select Committee. Government Ministers have often declared that a military solution will be sought and President Wijetunge says that there is no ethnic problem in Sri Lanka. Opposition leader Srimavo Bandaranaike has demanded that the whole country be put on a war footing. Further the government has consistently rejected mediation by other governments and by the United Nations and maintains that the conflict is an internal one and external intervention is not necessary. The military build up and the rejection of mediation only show that the government is interested in a military solution.

With reference to the above circumstances we hope that it has been adequately demonstrated that the opinion of the British authorities that the Sri Lankan authorities are willing and able to provide effective protection is wrong. Young Tamils face considerable risks in Sri Lanka wherever they may be on the island. Often the risk comes from the very persons British authorities seem to think are protecting them.

Habeas Corpus Applications

Case 1: Selvanayagam Balendran was arrested on 1 September 1993 and is being held detained at the Puttalam police Station. He was earlier arrested on 16 August 1993 and released on bail on 24 August 1993. No reason has been given for his arrest on 1 September 1993. His wife Navasakthy Balendran has filed a habeas corpus application in the Court of Appeal.

Case 2: Puvilingam Sugunewaran (age 29) and Krishnarajah Vimalenthiran (age 17) were arrested in Negambo on 7 June 1993. They were detained at the Negombo police station for two weeks and handed over to the Crime Detention Bureau (CDB). They were held in the sixth floor of the police headquarters in Colombo until 25 July 1993 and are currently detained in the Magazine prison under Emergency regulation 17(1). Sugunewaran came to Colombo from Atchuvelli in Jaffna to go abroad. No reasons have been given for their arrests and they have not been produced before a court. Their parents have filed habeas corpus applications.

Arrests & Detentions

requirement that they should report to the Criminal Investigation Department every fortnight and inform the Director CID before leaving for abroad.

CASE 3: Muthukumar Gunasingam (age 40) a farmer from Malavi in Vavuniya and farther of five children, came to Colombo on 25 June 1993 after obtaining permission from Army Officers in Vavuniya to see his sister who is married to Thillainathan, a former Member of Parliament. He was staying at Sri Siddhartha Place at Kirillapone and was arrested during a police round-up on 26 June 1993. He is currently detained at the Magazine prison. He has not been produced before court and the reasons for his arrest have not been given. His wife Kanapathipillai Malini has filed a habeas Corpus application.

Case 4: Joseph Paniamayam, a mother of five children and her son LMV Joseph are currently being detained by the Chillow police. Panimayam's husband works abroad. she was arrested by Chilaw police on 13 June 1993. No reasons have been given for her arrest. LMV Joseph a student of St Anthony's College, Wattala was arrested on 14 June 1993 when he went to visit his mother in Chilaw. Both persons

Case 1: Mahalingam Thirukumaran of Inuvil in Jaffna was arrested in Colombo on 3 June 1993 under Emergency regulations. He was not produced before a magistrate within 48 hours of arrest as required by Emergency Regulations (ER). Under ER 19(1) a detainee held for over 90 days without charges in court is eligible for release on bail. The police produced Thirukumaran before the Magistrate Court only on 26 November 1993 and requested for further detention under the PTA. Court has allowed remand custody until 18 February 1994.

Case 2: Five Tamil women who arrived in Colombo to go abroad were arrested on 13 October 1993 from a lodging house in Kotahena, Colombo on suspicion of LTTE links. They were produced in court only on 3 December 1993. The Court ordered their release for lack of evidence with the

have not been produced before court. Habeas Corpus application have been filed by Panimayam's niece Mary Rita Agrus.

Case 5: K Kamalanathan of Vattakachchi, Kilinochchi presently a Citizen of Canada, was arrested on 23 January 1993 and detained on an order made by the Defence Ministry. He is charged under the Prevention of Terrorism Act of possessing an AK 47 rifle between 1/8/1987 and 1/1/1989 and the available evidence is the confession made by Kamalanathan while in custody. Kamalanathan had been arrested when he returned to Sri Lanka after working in Germany, Britain and Canada. The Attorney General filed charges only after Kamalanathan's mother filed a habeas Corpus application. The Colombo High Court will hear the case on 24 January 1994.

Case 6: Sabastianpillai Ravi Sankar (age 23) was rounded up by the Modera police at 12 midnight at his home in the presence of his cousin B R Manmatharajah on 17 August 1993. Ravi Sangar fled to India as a refugee in August 1990 and remained in a refugee camp until August 1992. He returned to Sri Lanka on request by his father Swampillai Sabastianpillai on

14/8/92 by plane and stayed in Mount Lavinia from 14/8/92 to 23/11/92. Thereafter he moved to Colombo and stayed there until he was rounded up. During his stay in Colombo, he underwent a driving course and obtained a bus licence from the Registrar of Motor vehicles. He was working as a driver transporting goods to UNHCR while he was arrested.

Ravi Sankar was subjected to severe torture by C D B officers at Gregory Road, Borella and was forced to sign documents under duress. According to Ravi Sankar's statement, he was subjected to torture after telling them that he had stayed in India as a refugee in the refugee camp.

Case 7: Suntharamoorthy Mahathevan (age 26) went to Saudi Arabia for employment on 22/5/1990 from Colombo. He returned to Sri Lanka on vacation on 30/5/1993 and as he could not proceed to Jaffna due to military operations he stayed in a Lodge in Colombom 13. He was arrested while returning from a Temple by the Pettah Police. He had produced all evidences required to establish his identity and his whereabouts to the police since he arrived from Soudi Arabia, but the police refused permission and detained him at the Welikade prison. He was produced before

the court on 22/6/93 and was released and allowed to go. He was again arrested by the same Pettah Police at the Court premises and taken to Pettah Police and detained from 22/6/93 to 18/8/93. He was released due to the intervention of his uncle. Mahathevan accuses the police of causing mental and physical pain, harassment and extortion.

Abduction

Kumaravel Haren was abducted by an armed group headed by Uma Pragas operating as an agent of the Sri Lankan Security forces at Armour Street in Colombo on 14/11/93. Haren was a Civil Engineer working at Samacon Ltd. in Colombo. He was earlier working at Messrs Rajagopal (Engineering) Co. in Madras and returned to Sri Lanka in July

1992. Haren visited his aunt Mrs Mahalingam at Mount Lavinia around 5.30 pm and returned home by bus which stopped at Armour Street near his home. While he was walking home from the bus stop he was stopped by a group of armed men and taken to a white colour HIACE van parked near Messenger Street. His mother Thevy Kumaravel wrote to the President on 21 November 1993 and sent appeal letters to the Prime Minister, Secretary of Defence, Military Commander, Heads of military intelligence, NGOs, ICRC and leaders of Tamil groups operating from Colombo. His dead body was later found left on Ratmalana railway track.

Uma Prakash is one of the many agents of the Security forces in Sri Lanka. He operates from the directorate of Military Intelligence from Vanavasala, off Ragama with a brief to clear the capital Colombo of LTTE threat. Uma Prakash is also accused of running a torture camp at Chettikulam. Uma Prakash who was formerly a member of PLOTE was living in India when a senior Tamil officer in the notorious National Intelligence Bureau (NIB) went to India [sent specially to recruit Uma Prakash and his followers] and persuaded him and his associates to work for the government guaranteeing substantial financial benefits.